

REMARKS

By the present amendment, claim 3 has been canceled without prejudice or disclaimer, and claims 15 and 16 have been amended to depend on claim 1.

Claims 1-2, 5-7, 11-12, 15-16, and 22-27 are pending in the present application. Claim 1 is the only independent claim.

I. Double patenting rejection

In the Office Action, claims 1-3, 5-8, 11-12, 15-17, and 22-31 are rejected under the judicially-created doctrine of obviousness-type double-patenting over claims 1-3 and 11-12 of U.S. Appl. No. 10/541,202. The previously made rejection has been maintained on the ground that a Terminal Disclaimer has not yet been submitted in this application.

It is submitted that, as indicated in the last response, a Terminal Disclaimer has already been submitted in the co-pending (later-filed) U.S. Appl. No. 10/541,202. Accordingly, withdrawal of the double patenting rejection in this application is respectfully requested pursuant to MPEP 804(B)(1).

II. Indefiniteness rejection

In the Office Action, claims 15, 16, 25 and 27 are rejected under 35 U.S.C. 112, second paragraph, as indefinite because of the cancellation of claim 8.

Claims 15 and 16 have been amended to depend on claim 1. Applicant's representative apologizes for the error in the last response. Claims 25 and 27 depend on claim 15.

In view of the above, it is submitted that the rejection should be withdrawn.

III. Art rejections

In the Office Action, the following rejections are set forth:

- Claims 1-3, 5-7, 11-12, 15-16, and 22-27 are rejected under 35 U.S.C. 103(a) as anticipated by US 6,991,260 to Fan et al. (“Fan’260”) in view of US 6,471,248 to Hardwick et al. (“Hardwick”).
- Claims 1-3, 5-7, 11-12, 15-16, and 22-27 are rejected under 35 U.S.C. 103(a) as obvious over Fan’260 and Hardwick, further in view of US 6,357,800 to Muller et al. (“Muller”).
- Claims 1-3, 5-7, 11-12, 15-16, and 22-27 are also rejected under 35 U.S.C. 103(a) as obvious over Fan’260, Hardwick and Muller, as evidenced by CA 2,335,239 to Zeiter et al. (“Zeiter”).
- Claims 12 and 16 are rejected under 35 U.S.C. 103(a) as obvious over Fan’260, Hardwick and Muller, further in view of U.S. 5,449,200 to Andric et al. (“Andric”).
- Claims 22-27 are also rejected under 35 U.S.C. 103(a) as obvious over Fan’260, Hardwick and Muller, further in view of Andric.

Reconsideration and withdrawal of the rejections is respectfully requested.

Fan’260 has an effective date under section 102(a) from its publication date on May 6, 2004, which is later than the PCT filing date of the present application on July 18, 2003.

Further, Fan’260 has an effective date under section 102(e) from its US filing date on October 30, 2002, which is earlier than the PCT filing date of the present application on July 18, 2003, but later than the priority date of July 19, 2002 claimed in the present application.

A certified English translation of the priority document French Application No. 0209221 filed on July 19, 2002 is submitted with this paper.

The text of the priority application is identical to the text of this application, except that the paragraph at page 3, lines 26-28 of this application and claim 3 of this application are not present in the priority application, and accordingly, the claims of the priority application corresponding to claims 4-12 of this application are numbered 3-11.

By the present amendment, claim 3 has been cancelled.

Thus, the priority application provides support for the present claims.

Fan'260 does not have an effective date earlier than the priority date of July 19, 2002 claimed in the present application. Therefore, Fan'260 is not applicable against the present claims.

In view of the above, it is submitted that the rejection should be withdrawn.

Conclusion

In conclusion, the invention as presently claimed is patentable. It is believed that the claims are in allowable condition and a notice to that effect is earnestly requested.

If there is, in the Examiner's opinion, any outstanding issue and such issue may be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

Application No. **10/521,555**
Art Unit: **1794**

Amendment under 37 CFR §1.111
Attorney Docket No.: **052014**

If this paper is not considered to be timely filed, the Applicants hereby petition for an appropriate extension of the response period. Please charge the fee for such extension and any other fees which may be required to Deposit Account No. 50-2866.

Respectfully submitted,
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

/nicolas seckel/

Nicolas E. Seckel
Attorney for Applicants
Reg. No. 44,373
Telephone: (202) 822-1100
Facsimile: (202) 822-1111

NES/rep